

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.78.102, 37.78.415,) PROPOSED AMENDMENT
37.78.506, and 37.78.833 pertaining)
to Temporary Assistance for Needy)
Families (TANF))

TO: All Concerned Persons

1. On October 3, 2008, at 2:00 p.m., the Department of Public Health and Human Services will hold a public hearing in the Wilderness Room of the Colonial Building, at 2401 Colonial Drive, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on September 22, 2008, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, Montana, 59620-2951; telephone (406)444-9503; fax (406)444-6744; or e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.78.102 TANF: FEDERAL REGULATIONS ADOPTED BY REFERENCE

(1) remains the same.

(2) The "Montana TANF Cash Assistance Manual" dated ~~July 1, 2008~~ January 1, 2009 is adopted and incorporated by this reference. A copy of the Montana TANF Cash Assistance Manual is available for public viewing at each local Office of Public Assistance, and at the Department of Public Health and Human Services, Human and Community Services Division, 111 N. Jackson St., 5th Floor, P.O. Box 202925, Helena, MT 59620-2925. Manual updates are also available on the department's web site at www.dphhs.mt.gov.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.415 TANF: TANF CASH ASSISTANCE; EXCLUDED EARNED INCOME (1) through (2)(c) remain the same.

- (d) all Workforce Investment Act (WIA) work experience income; ~~and~~
(e) all work-study earnings or payments received by a postsecondary

student, regardless of the payment source; and
(f) all earned income received by a temporary census employee.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.506 TANF: TANF CASH ASSISTANCE; SANCTIONS (1) If any member of the assistance unit fails or refuses without good cause as defined in ARM 37.78.508 to comply with an allowable work activity as defined in (8), or to provide verification and/or documentation of participation in the activities, a sanction will be imposed on the individual. The first sanction will result in the reduction of the monthly TANF Cash Assistance payment by an amount equal to one person's share of the payment for one month. The second sanction will result in case closure and the imposition of a one month ineligibility period against all individuals who are considered to be a TANF recipient in the household at the time of the sanction, all individuals who were required filing unit members at the time of the sanction or individuals who enter the household during the ineligibility period and who would have been a required filing unit member at the time of sanction. The third sanction will result in case closure and the imposition of a three month ineligibility period against all individuals who are considered to be a TANF recipient in the household at the time of the sanction, all individuals who were required filing unit members at the time of the sanction, or individuals who enter the household during the ineligibility period and who would have been a required filing unit member at the time of sanction. The fourth and subsequent sanctions will result in a six months ineligibility period against all individuals who are considered to be a TANF recipient in the household at the time of the sanction, all individuals who were required filing unit members at the time of the sanction or individuals who enter the household during the ineligibility period and who would have been a required filing unit member at the time of sanction. The ineligibility period will follow the required filing unit members or individual(s) even if they move to another household and apply for benefits as part of that household, with the following exceptions:

(a) through (10) remain the same.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, 53-4-608, 53-4-717, MCA

37.78.833 TANF CASH ASSISTANCE POST-EMPLOYMENT PROGRAM

(1) through (1)(a)(ii) remain the same.

(b) ~~the household~~ no adult household member who is receiving TANF cash assistance benefits (coded "IN") or who has been disqualified (coded "DQ") has not received at least one month of TANF cash assistance post-employment benefits in the prior 12 months;

(c) through (3) remain the same.

(4) The Post-Employment Program is a time-limited program. Households that are eligible for this program may receive up to three months of benefits. Payment standards for the Post-Employment Program are outlined in ARM 37.78.420. For each month of assistance provided under the Post-Employment

Program, the time clock of the individuals receiving assistance will increment as outlined in ARM 37.78.201. However, households may not exceed their 60-month time clock by receipt of a post-employment benefit.

(5) and (6) remain the same.

AUTH: 53-4-212, MCA

IMP: 53-4-211, MCA

4. The Department of Public Health and Human Services is proposing to amend ARM 37.78.102, 37.78.415, 37.78.506, and 37.78.833 pertaining to Temporary Assistance for Needy Families (TANF).

ARM 37.78.102

ARM 37.78.102 currently adopts and incorporates by reference the TANF policy manual effective July 1, 2008. The department proposes to make some revisions to this manual that will take effect on January 1, 2009. The proposed amendments to ARM 37.78.102 are necessary to incorporate into the Administrative Rules of Montana the revised versions of the policy manual and to permit all interested parties to comment on the department's policies and to offer suggested changes. It is estimated that changes to the TANF manual could affect approximately 7,917 TANF recipients. Manuals and draft manual material are available for review in each local Office of Public Assistance and on the department's web site at www.dphhs.mt.gov.

ARM 37.78.415

This rule has been updated to reflect a decision of the department to exclude the income that is earned by a temporary census employee. This came as a request from the United States Census Bureau.

This change will allow participants, who are employed by the Census Bureau, to remain eligible for the TANF cash assistance program while participating in very short term employment that involves an intermittent work schedule. Currently this short term employment would be counted as earned income, thus potentially affecting participants' TANF cash benefit amount or resulting in case closure due to new or increased earned income.

This change will have a positive impact on TANF cash assistance participants.

This change will apply to an average of approximately 7,917 TANF participants who are currently mandated to participate in work activities or are a member of the participant's filing unit.

ARM 37.78.506

This rule has been updated to clarify that when a sanction penalty is imposed and results in case closure, the ineligibility period is against all individuals who were considered to be a TANF recipient in the household at the time of the sanction period, individuals who were required filing unit members at the time of the sanction, or all individuals who enter the household during the ineligibility period and who would have been a required filing unit member at the time of the sanction.

This is a clarification only of current policy.

ARM 37.78.833

This rule has been updated to reflect that in order to be eligible for the TANF Cash Post-Employment Program no adult household member coded "IN" or "DQ" has received post-employment benefits in the prior 12 months. The rule was updated to clarify existing policy that states no required filing unit member has received post-employment benefits (1-3 months) in the last 12 months. The department did not intend for children to make a family ineligible if they were previously in a household that received post-employment benefits in the last 12 months.

The change will apply to an average of approximately 3,175 TANF cases currently receiving cash assistance. It is estimated that approximately 1,518 of the above mentioned households will meet eligibility criteria for this program.

Following is a brief overview of the TANF manual sections with substantive changes related to the above rule changes.

TANF 502-1 - Earned Income

TANF 502-1 is being updated to reflect that the earned income received by a temporary census employee will be excluded.

TANF 604-2 - Post-Employment Program

TANF 604-2 is being updated to reflect that no adult household member coded "IN" or "DQ" has received TANF cash assistance post-employment benefits in the prior 12 months.

5. The department intends that the amendments to ARM 37.78.415 be applied retroactively to October 1, 2008. The changes to ARM 37.78.102, 37.78.506, and 37.78.833 are proposed to be effective January 1, 2009. No detrimental effects are anticipated as a result.

6. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951, no later than 5:00 p.m. on October 9, 2008. Comments may also be faxed to (406)444-9744 or e-mailed to dphhslegal@mt.gov. The department maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according

to subjects or programs of interest. To be included on such a list, please notify this same person or complete a request form at the hearing.

7. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct the hearing.

/s/ Francis X. Clinch
Rule Reviewer

/s/ Joan Miles
Joan Miles, Director
Public Health and Human Services

Certified to the Secretary of State September 2, 2008.